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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,489	03/15/2004	Chi-Yin Wong	010327-008310US	1219
20350 7590 01/30/2009 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			EXAMINER WU, JIANYE	
			ART UNIT 2416	PAPER NUMBER
			MAIL DATE 01/30/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/801,489

Applicant(s)

WONG, CHI-YIN

Examiner

Jianye Wu

Art Unit

2416

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/16/08.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments and all other documents filed on 12/16/2008 have been fully considered but are moot because all independent claims are amended.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. **Claims 1-15** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Independent **claims 1, 5, 9 and 12** recite the limitation "...the validity field of a first subset of the octets of the payload ... the validity field of a second subset of the octets of the payload ...". However, Specification clearly discloses that **each octet has a validity field** ("there is a 'validity' field 202 associated with each octet", [0013], page 3, line 31-32), instead of that a **subset of octets** has a validity field as recited in the claims. The limitation presented in claims is **broader** than the one in the Specification.

Dependent claims are rejected because they depend from independent claims.

For examination on the merits, the claims will be interpreted as the best understood.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 1-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over ATM Forum, AF-VMOA-0145.000, "Voice and Multimedia Over ATM – Loop Emulation Service Using AAL2", July, 2000, (hereinafter VMOA) in view of Thomann (US 6085528).

For **claims 1, 5, 9 and 12**, VMOA discloses a system for managing circuit emulation service over an ATM network (Figure 1 of Page 10), comprising:

a first ATM processor configured to:

receive channelized circuit data (User traffic, Figure 2 of Page 12), the channelized circuit data being transmitted at an arbitrary rate (lines1-7 of Section 1.1, Page 6);

format the channelized circuit data into one or more ATM cells, each ATM cell having a payload, the payload having a plurality of octets and corresponding validity fields (SSTED CRC-32 Figure C-2, page 74), each validity field indicating whether the associated octet contains valid data (CRC-32 is interpreted as an validity field for each octet of the payload since it applied to all the octets of the payload), wherein the first ATM processor is configured to set the validity field of a first subset of the octets of the payload of each of the one or more ATM cells to a valid status to indicate that data is stored in the first subset of octets, and wherein the first ATM processor is further configured to set the validity field of a second subset of the octets of the payload of each of the one or more ATM cells to an invalid status to indicate that no data is stored in the second subset of octets; and

transmit the one or more ATM cells across the ATM network; and
a second ATM processor configured to configured to transmit the one or more ATM cells across the ATM network (Figure 1 of Page 10);

wherein the transmission of the one or more ATM cells effectively results in transmission of the channelized circuit data at the arbitrary rate over the ATM network (Figure 1 of Page 10);

wherein the arbitrary rate is achieved by adjusting a ratio of a number of octets in the first subset of octets to a number of octets in the second subset of octets for each of the one or more ATM cells; and

wherein the arbitrary rate is not a multiple of a fundamental rate (lines1-7 of Section 1.1, Page 6; e.g., rate for compressed voice).

VMOA is silent on each validity field being associated with one octet of the plurality of octets.

In the same field of endeavor, Thomann discloses using "a parity bit for each byte" of ATM cell (col. 7, line 34-36).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to modify VMOA with Thomann to associate a validity field to each byte in the ATM cell in order to enhance error detection.

As to **claim 2**, VMOA discloses the system of claim 1 wherein the arbitrary rate is less than the fundamental rate (lines1-7 of Section 1.1, Page 6; e.g., rate for compressed voice).

As to **claim 3**, VMOA discloses the system of claim 1 wherein the arbitrary rate is higher than the fundamental rate (multiple User traffic, Figure 2 of Page 12).

As to **claim 4**, VMOA discloses the Traffic aggregation equipment incorporating the system as recited in claim 1 (Figure 2 of Page 12).

As for **claim 6**, it is the same as to claim 5, therefore, is rejected for the same reason explained in claim 5 above.

As for **claim 7**, it is equivalent to system claim of claim 2, therefore, is rejected for the same reason explained in claim 2 above.

As for **claim 8**, it is equivalent to system claim of claim 3, therefore, is rejected for the same reason explained in claim 3 above.

For **claims 9-11**, they are the corresponding method claims of claims 1-3, therefore, are rejected for the same reasons explained in claims 1-3 above.

For **claims 12-15**, they are the corresponding method claims of claims 5-8, therefore, are rejected for the same reasons explained in claims 5-8 above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianye Wu whose telephone number is (571)270-1665. The examiner can normally be reached on Monday to Thursday, 8am to 7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on (571)272-3174. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jianye Wu/

Examiner, Art Unit 2416

/Kevin C. Harper/

Primary Examiner, Art Unit 2416